Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

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<u>Ex parte</u> JHEROEN P. DORDENBOSCH
and
ALAIN C. BRIANCON

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Appeal No. 2000-0274
Application No. 08/724,568

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ON BRIEF

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Before HAIRSTON, BARRETT, and LALL, <u>Administrative Patent Judges</u>.

HAIRSTON, <u>Administrative Patent Judge</u>.

<u>DECISION ON APPEAL</u>

This is an appeal from the final rejection of claims 1 through 20. In an Amendment After Final (paper number 14), claims 13 and 18 were amended. As a result of appellants' withdrawal of the appeal as to claims 11, 12, 14, 16, 17 and 19, only claims 1 through 10, 13, 15, 18 and 20 remain before us on appeal (brief, page 3).

The disclosed invention relates to a method and apparatus

for transmitting fragmented messages to a selective call unit

memory in a messaging system.

Claims 1 and 13 are illustrative of the claimed

invention, and they read as follows:

1. In a selective call unit that receives a
sequence of interspersed message fragments transmitted by
a messaging system, a method for optimizing memory
utilization of the selective call unit, the method
comprising in the selective call unit the steps of:

receiving a message length command from the
messaging system indicating a total message length of a
message, said message including a plurality of
interspersed message fragments, pending transmission from
the messaging system;

determining whether there is sufficient memory
available in the selective call unit according to the
message length command;

reserving memory space equivalent to the total
message length for receiving the message when the total
message length is equal to or less than available memory
space; and

disallowing reception of the message when the total
message length is greater than available memory space.

13. In a messaging system having a transmitter for
transmitting to a selective call unit a sequence of
interspersed message fragments, a method for optimizing
memory utilization of the selective call unit, the method
comprising in the messaging system the steps of:

receiving a plurality of messages from at least one
caller communicating with the messaging system, the
plurality of messages pending transmission to the
selective call unit;

determining a plurality of message length commands
each indicative of a message length of a corresponding

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one of the plurality of messages; and

　　　　causing the transmitter to transmit, to the selective call unit, the plurality of message length commands, and a predetermined number of interspersed message fragments corresponding to a portion of the plurality of messages,

　　　　wherein each message length command is transmitted in a corresponding one of plurality of message fragments, each message fragment corresponding to a first message fragment of a corresponding one of the plurality of messages, and wherein the predetermined number of interspersed message fragments comprise a subsequent set of message fragments to complete transmission of the plurality of messages.

The references relied on by the examiner are:

DeLuca et al. (DeLuca)	5,225,826	Jul. 6, 1993
Hamamoto et al. (Hamamoto)	5,412,719	May 2, 1995
Faris et al. (Faris)	5,488,359	Jan. 30, 1996

Claims 1 through 4, 9, 13, 15, 18 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art in view of Hamamoto and Faris.

Claims 5 through 8 and 10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over the admitted prior art in view of Hamamoto, Faris and DeLuca.

Reference is made to the brief (paper number 15) and the answer (paper number 16) for the respective positions of the appellants and the examiner.

OPINION

We have carefully considered the entire record before us, and we will reverse the obviousness rejection of claims 1 through 10, 13, 15, 18 and 20.

According to the examiner (answer, page 4), "[t]he admitted prior art includes all the claimed limitations except for the claimed receiving a message length command (indicating the length of the pending message) which is used to determine if there is sufficient memory in the receiver," "Faris shows a system in which the memory full determination is based upon the length of an incoming message," and "Hamamoto shows a system in which the transmitter transmits a message length command to indicate the length of a pending message." Based upon the teachings of the admitted prior art, Faris and Hamamoto, the examiner contends (answer, page 4) that "it would have been obvious to one of ordinary skill in the art at the time of the invention to have utilized a message length command to assist in determining if there is sufficient memory in the receiver of the admitted prior art system, since this would make the admitted prior art system accurate and user friendly (more automated)."

The admitted prior art (specification, page 1, lines
23 through 29) discloses that it was well known in the art for
a message fragment of a transmitted message to include
"information indicating the length of the message fragment."
In Faris, the size of a message is determined by a header
portion of the message (column 4, lines 27 through 29). Faris
uses message deletion when the memory 200 in the selective
call receiver
40 does not have room for a new message (column 4, lines
29 through 36; column 5, lines 1 through 20). In a second
embodiment disclosed by Faris, a memory full threshold "is
continuously adjusted according to an updated average length
of messages received by the portable device" (column 2, lines
33 through 35). Hamamoto explains that a typical information
format includes end codes that terminate a single transmission
to a pager (Figure 23; column 19, lines 48 through 51). When
end codes are not used, message length is a parameter of the
message sent to the pager (column 8, lines 24 through 33).
During reproduction of the message, the pager reads its memory
in accordance with that parameter (column 8, lines 33 through
36).

Appellants argue (brief, page 12) that:

> For example amended claim 1 includes a step of:
> receiving a message length command from the
> messaging system indicating a total message length
> of a message, <u>said message including a plurality of</u>
> <u>interspersed message fragments,</u> pending transmission
> from the messaging system. Neither the background
> material nor Hamamoto et al[.] nor Faris et al[.]
> discusses or suggests any such message length
> command in Applicant's [sic, Applicants'] view.

As indicated <u>supra</u>, the admitted prior art transmits a

message fragment length, as opposed to a "total message

length." A "total message length" command is neither taught

by nor would have been suggested by either Faris or Hamamoto.

Appellants additionally argue (brief, page 13) that:

> While the background material, referring to the
> query approach, does speak of a message length and
> determining the memory sufficiency based on this
> information as well as reserving memory if
> appropriate[,] there is no process step equivalent
> to disallowing reception if the memory is
> insufficient
> . . . . Faris et al[.] at col. 1[,] line 58 speaks of
> receiving a message and determining the size of the
> message again rather than disallowing reception based on
> a message length command. Hamamoto et al. does not speak
> of these or of analogous steps.

We agree with appellants' argument that the admitted

prior art and Hamamoto are silent as to disallowing reception

of a message if the memory has insufficient space to receive

the message. As indicated <u>supra</u>, Faris uses message deletion

when the memory does not have enough room for a new message.

Based upon the foregoing, we agree with appellants'

argument (brief, page 13) that the admitted prior art, Faris

and Hamamoto when considered singularly or in combination

neither teach nor would have suggested the claimed invention

set forth in claims

1 through 4, 9, 15 and 20. Accordingly, the obviousness

rejection of claims 1 through 4, 9, 15 and 20 is reversed.

The obviousness rejection of claims 5 through 8 and 10 is

likewise reversed because we agree with appellants' argument

(brief, pages 15 and 16) that the message priority teachings

of DeLuca[1] do not

cure the noted shortcomings in the teachings of the admitted

prior art, Faris and Hamamoto.

We agree with the appellants' argument (brief, pages 14

and 15) that the claimed "message length" set forth in claims

13 and 18 refers to a message, and not to a "fragment" of the

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[1] In DeLuca, message deletion is used to make room in
memory for messages that take priority over the deleted
message (column 9, lines 23 through 59).

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message as described in the admitted prior art. Neither Faris

nor Hamamoto teaches or would have suggested to the skilled

artisan such a "message length." Thus, the obviousness

rejection of claims

13 and 18 is reversed.

DECISION

The decision of the examiner rejecting claims 1 through
10, 13, 15, 18 and 20 under 35 U.S.C. § 103(a) is reversed.

REVERSED

KENNETH W. HAIRSTON   )
Administrative Patent Judge)
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)   BOARD OF PATENT
LEE E. BARRETT   )   APPEALS AND
Administrative Patent Judge)   INTERFERENCES
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PARSHOTAM S. LALL   )
Administrative Patent Judge)

KWH:hh

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